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# NASA Procedural Requirements

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## Subject: Attendance and Leave

**Responsible Office: Office of Human Capital Management**[| main](#) | [Preface](#) | [Chapter1](#) | [Chapter2](#) | [Chapter3](#) | [Chapter4](#) | [Chapter5](#) | [ALL](#) |

## Chapter 5. Enhanced Annual Leave Earning Rates

### 5.1 Reference

The NASA Flexibility Act of 2004 (P.L. 108-201) as codified in 5 U.S.C. 9812.

### 5.2 Responsibility

NASA Center Directors and the Assistant Administrator for Human Capital Management have authority to determine that a period of qualified non-Federal service is creditable under this provision for annual leave accrual purposes. This authority may be re-delegated in accordance with Center policy.

### 5.3 Policy

In order to recruit skilled and experienced employees from the private sector, authorized officials may approve enhanced annual leave accrual rates by determining that a period of qualified non-Federal service is creditable for annual leave accrual purposes for certain newly appointed employees.

### 5.4 Definitions

5.4.1 Newly appointed employee means an individual who is first appointed:

- a. As an employee of the Federal Government.
- b. As an employee of the Federal Government following a break in service of at least
- c. 90 days after that individual's last period of Federal employment, other than:
  - (1) employment under the Student Educational Employment Program administered by the Office of Personnel Management.
  - (2) employment as a law clerk trainee.
  - (3) employment as a student under a short-term temporary appointing authority during periods of vacation from the educational institution at which the student is enrolled.
  - (4) employment under a provisional appointment if the new appointment is permanent and immediately follows the provisional appointment.
  - (5) employment under a temporary appointment that is neither full-time nor the principal employment of the individual.

5.4.2 Period of qualified non-Federal service means the period of service performed by an individual that:

- a. Was performed in a position the duties of which were directly related to the duties of the position in NASA which that individual will fill as a newly appointed employee.
- b. Except for this section, otherwise would not be service performed by an employee for purposes of 5 U.S.C. 6302.

5.4.3 Directly related to the duties of the position means duties and responsibilities in the same line of work which require similar qualifications.

## 5.5 Employees Covered

5.5.1 Except for employees covered by paragraph 5.4.2, newly appointed NASA employees are eligible for enhanced leave based on an approved period of qualified non-Federal service.

5.5.2 All employees paid under 5 U.S.C. 5376 (senior-level positions) and 5 U.S.C. 5383 (Senior Executive Service) and employees in equivalent categories whose rate of basic pay is greater than the rate payable at GS-15, step 10 level shall receive one day of annual leave for each full biweekly pay period.

5.5.3 Enhanced leave authorized under this authority for employees covered by Administratively Determined (AD) pay schedules must be redetermined whenever adjustments are made to an employee's pay. Employees whose pay falls below the GS 15, step 10 level become ineligible for enhanced leave under this authority and must have their service credit for leave redetermined in accordance with 5 U.S.C. Chapter 63. If the employee's pay is adjusted subsequently above the GS-15, step 10 level, the employee once again becomes entitled to enhanced leave under this authority.

## 5.6 Employees Excluded

This authority may not be used in connection with a political appointee who holds (1) a position that has been excepted from the competitive service by reason of its confidential, policy-determining, policy-making, or policy-advocating character (?Schedule C position?); or (2) a position in the Senior Executive Service (SES) as a noncareer appointee, as such term is defined in 5 U.S.C. 3232(a).

## 5.7 Criteria for Approval

5.7.1. Approving officials must consider the following prior to approving a period of qualified non-Federal service for credit under this section for newly appointed employees:

<i>Considerations</i>	<i>Definition</i>
The Skills are Essential	Importance of the required skills to the organization's and NASA's success.
Degree of Difficulty in Obtaining the Skills	Availability of quality candidates with the desired skills and experience. Positions with a limited qualified applicant pool may indicate a shortage of labor and, therefore, the skills may be difficult to obtain.

5.7.2 Approval must be based on written documentation that:

- a. The skills are essential.
- b. The skills are difficult to obtain.
- c. Enhanced annual leave entitlement will assist NASA in obtaining these skills.

5.7.3 Annual leave enhancements should be used as a recruitment incentive.

5.7.4 Internal equity and leave accrual rates for the organization's current Federal employees with equivalent skills and length of service should be considered when determining the amount of non-Federal experience to be credited for leave accrual purposes.

## 5.8 Leave Accrual Rates

5.8.1 When the approving official has determined that a period of qualified non-Federal service is creditable for leave accrual under this section, all or a portion of the specified period of creditable non-Federal service may be used to determine an employee's annual leave accrual rate. The accrual rate will be determined in accordance with 5 U.S.C. 6303(a).

5.8.2 All employees paid under section 5 U.S.C. 5376 (senior-level positions), 5 U.S.C. 5383 (SES), and employees in equivalent categories whose rate of basic pay is greater than the rate payable at the GS-15, step 10 level shall receive one day for each full biweekly pay period.

5.8.3 While employed at NASA, annual leave accrual rates established under this section shall continue. Upon transfer to another Federal agency, the employee's creditable service for annual leave accrual and the annual leave accrual rate will be determined by the gaining agency in accordance with 5 U.S.C. Chapter 63.

## 5.9 Personnel Action Processing

The REMARKS section of the personnel action (Standard Form 50) must state: "The employee's annual leave accrual rate was set pursuant to 5 U.S.C. 9812. In the event the employee leaves NASA and is employed subsequently in another position subject to the provisions of 5 U.S.C. Chapter 63, the employee's service credit for annual leave and annual leave accrual rate will be determined by the gaining agency in accordance with 5 U.S.C. Chapter 63."

## 5.10 Records and Reports

Center Human Resource Officers must maintain a record of:

- a. The total number of employees who were awarded enhanced annual leave under this section during the previous fiscal year.
- b. The number of employees who were awarded enhanced annual leave who were serving in a position addressing a critical need described in the workforce plan pursuant to 5 U.S.C. 9802.
- c. The average amount of additional annual leave such employees earned in the preceding fiscal year (over and above what they would have earned absent this section) for each of the categories in paragraph a. and b. above.

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